

Translation

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PCT/EP2003/007212



PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY (Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 031316wo/KB	FOR FURTHER ACTION See Form PCT/IPEA/416	
International application No. PCT/EP2003/007212	International filing date (day/month/year) 05 July 2003 (05.07.2003)	Priority date (day/month/year) 19 July 2002 (19.07.2002)
International Patent Classification (IPC) or national classification and IPC C04B 35/64		
Applicant VITA ZAHNFABRIK H. RAUTER GMBH & CO. KG		

<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of <u>5</u> sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input checked="" type="checkbox"/> (sent to the applicant and to the International Bureau) a total of _____ sheets, as follows:</p> <p><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>	
<p>4. This report contains indications relating to the following items:</p> <p><input checked="" type="checkbox"/> Box No. I Basis of the report</p> <p><input type="checkbox"/> Box No. II Priority</p> <p><input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p><input type="checkbox"/> Box No. IV Lack of unity of invention</p> <p><input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p><input type="checkbox"/> Box No. VI Certain documents cited</p> <p><input type="checkbox"/> Box No. VII Certain defects in the international application</p> <p><input type="checkbox"/> Box No. VIII Certain observations on the international application</p>	

Date of submission of the demand 28 November 2003 (28.11.2003)	Date of completion of this report 29 October 2004 (29.10.2004)
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2003/007212

Box No. I Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.

- ☐ This report is based on translations from the original language into the following language _____, which is language of a translation furnished for the purpose of:
- ☐ international search (under Rules 12.3 and 23.1(b))
 - ☐ publication of the international application (under Rule 12.4)
 - ☐ international preliminary examination (under Rules 55.2 and/or 55.3)

2. With regard to the elements of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:

- ☐ The international application as originally filed/furnished
- ☒ the description:
- pages _____ 1-11 _____, as originally filed/furnished
- pages* _____ received by this Authority on _____
- pages* _____ received by this Authority on _____
- ☒ the claims:
- pages _____, as originally filed/furnished
- pages* _____, as amended (together with any statement) under Article 19
- pages* _____ received by this Authority on _____
- pages* 1-21 received by this Authority on 16 June 2004 (16.06.2004)
- ☒ the drawings:
- pages _____ 1/4-4/4 _____, as originally filed/furnished
- pages* _____ received by this Authority on _____
- pages* _____ received by this Authority on _____
- ☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.

3. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages _____
- ☐ the claims, Nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____

4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

- ☐ the description, pages _____
- ☐ the claims, Nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**1. Statement**

Novelty (N)	Claims	1-10	YES
	Claims	11-21	NO
Inventive step (IS)	Claims	1-10	YES
	Claims	11-21	NO
Industrial applicability (IA)	Claims	1-21	YES
	Claims		NO

2. Citations and explanations

Reference is made to the following documents:

D1: WO 94/19917 A (LOCTITE CORP.) 1 September 1994
(1994-09-01)

D2: US-A-5194408 (GENERAL MILLS, INC.) 16 March 1993
(1993-03-16)

D3: US-A-4938673

D4: US-A-5057659 (a copy of this document is
attached to the present report)

1. Claims 1-10 satisfy the criteria in PCT Article 33(1) because their subject matter is novel, involves an inventive step and is industrially applicable.

- 1.1 The reasons are:

The subject matter of claim 1 differs from the prior art (see D1) in that

- A) the process is conducted in multi-mode mode, and
- B) the vessel in which the materials to be sintered are arranged comprises nonmetallic, antiferromagnetic materials.

A technical effect that does not follow from the prior art processes in an obvious manner is associated at least with feature A) (see the applicant's submission of 14 June 2004, points 1. and 2.). It can also not be excluded that "the combination essential to the invention" of A) and B) (see the applicant's submission of 14 June 2004, point 3.) has a technical effect that is yielded only by this combination.

- 1.2 The subject matter of product claim 11 is a vessel, using which the process according to claim 1 may be carried out. Said vessel comprises (at least) two materials, that is, two different materials, one of which in turn comprises a nonmetallic, antiferromagnetic material: for example, zinc chromate(III) and zinc oxide (see claim 12 and examples 1 and 2).

However, such subject matter is anticipated by D4 (see the European search report for details). There is no doubt that the "microwave heating utensil comprising a substantially microwave-transparent body and a particulate susceptor material fixed to said body, said susceptor material consisting essentially of at least one metallic oxide" (i.e. ZnO; claims 1 and 6) is suitable for carrying out the process according to claim 1.

- 1.3 It is not apparent at present whether claims 12-21 contain features that could, in conjunction with the features of claim 11, substantiate novelty and inventive step.

Further observations:

2. The description has not been brought into line with the newly filed claims.
3. Contrary to PCT Rule 5.1(a)(ii), the description does not cite D1 and D4.